

¹ The caregiver's signature is illegible, but the signature box indicates that the person who treated appellant on August 14, 2006 was a physician assistant.

June 6, 2006 when he lifted a package at work. Appellant was diagnosed with sciatica and prescribed pain medication, a muscle relaxant and advised to apply heat. He returned to the center on June 16, 2006 and Dr. Alfredo Gutierrez, Jr., M.D., diagnosed sciatica. Dr. Gutierrez excused appellant from work beginning June 16, 2006. X-rays obtained on June 20, 2006 revealed mild osteoarthritis of the right hip and minor degenerative changes of the lumbar spine.

In a decision dated July 24, 2006, the Office denied appellant's claim on the basis that there was no medical evidence that provided a diagnosis in connection with the June 6, 2006 employment incident.

Appellant requested reconsideration on August 23, 2006. He submitted a June 14, 2006 Form CA-16 (authorization for examination/attending physician's report), in which Dr. Gutierrez diagnosed employment-related sciatica. Appellant also submitted an August 9, 2006 lumbar magnetic resonance imaging (MRI) scan, which revealed, among other things, a disc herniation at L4-5.

Dr. James W. Simmons Jr., a Board-certified orthopedic surgeon, examined appellant on August 18, 2006 and reviewed the recent lumbar MRI scan. He noted that appellant complained of low back pain and sciatica, greater on the right, with an onset of June 6, 2006 when he was lifting a box. Approximately a week after the injury, appellant began having dysesthesias with pain radiating from the back into the right leg. On physical examination, Dr. Simmons noted marked lumbosacral paravertebral muscle spasm with tenderness in the lumbosacral region, more so on the right side. He diagnosed herniated nucleus pulposus at L4-5 and L5-S1 based on MRI scan, lumbar radiculopathy, central and foraminal stenosis at L4-5 and foraminal stenosis at L5-S1. Dr. Simmons recommended obtaining a lumbar discography and suggested the possibility of surgery depending on the results of the discography.

By decision dated November 28, 2006, the Office modified the prior decision to accept the June 6, 2006 lifting incident. However, the Office denied the claim because the medical evidence did not establish that a lumbar injury was either caused or aggravated by the June 6, 2006 employment incident.

On February 9, 2007 appellant requested reconsideration. He submitted two reports from Dr. Gerardo Zavala, a Board-certified neurosurgeon.² In a January 23, 2007 report, Dr. Zavala indicated that, when he saw appellant on September 25, 2006, appellant reported injuring his lower back on June 6, 2006 "doing heavy lifting at work." He noted that appellant was treated conservatively, but did not do well under Dr. Gutierrez's care. Dr. Zavala also noted that an August 2006 MRI scan showed a herniated disc at L4-5, and Dr. Simmons subsequently recommended surgery. On November 8, 2006 Dr. Zavala performed a left L4-5 decompressive laminectomy and radical discectomy and an L5-S1 left decompressive laminectomy. He reported that post surgery, appellant continued to complain of low back pain and he remained off work. On January 30, 2007 Dr. Zavala briefly reiterated the treatment that appellant received for his low back condition and added that his herniated disc and lumbosacral radiculopathy were related to the on-the-job injury of June 6, 2006.

² Dr. Zavala had previously treated appellant for injuries to his cervical spine and left shoulder.

By decision dated April 30, 2007, the Office denied modification of the November 28, 2006 decision.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.⁴

To determine if an employee sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred.⁵ The second component is whether the employment incident caused a personal injury.⁶ An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.⁷

ANALYSIS

Appellant attributed his lower back condition to a June 6, 2006 employment incident when he lifted a heavy parcel from the floor. Approximately two weeks following the incident, Dr. Gutierrez diagnosed sciatica. However, he did not clearly explain how the diagnosed condition was related to appellant's employment. Several months after the June 6, 2006 employment incident, a lumbar MRI scan revealed a herniated disc at L4-5. Dr. Simmons examined appellant on August 18, 2006 and reviewed the recent scan, and based on this information, he diagnosed herniated nucleus pulposus at L4-5, L5-S1, lumbar radiculopathy and stenosis. Although Dr. Simmons identified June 6, 2006 as the date of onset of appellant's low

³ 5 U.S.C. §§ 8101-8193 (2000).

⁴ 20 C.F.R. § 10.115(e), (f) (2007); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996). Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence. *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

⁵ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *Shirley A. Temple*, 48 ECAB 404, 407 (1997). The fact that the etiology of a disease or condition is unknown or obscure does not relieve an employee of the burden of establishing a causal relationship by the weight of the medical evidence nor does it shift the burden of proof to the Office to disprove an employment relationship. *Judith J. Montage*, 48 ECAB 292, 294-295 (1997).

back complaints, he did not explain how the employment-related lifting incident caused or contributed to the diagnosed conditions. Dr. Zavala's January 2007 reports are similarly flawed. While he stated that appellant's herniated disc and lumbosacral radiculopathy were related to the on-the-job injury of June 6, 2006, he did not explain how the lifting incident caused or contributed to appellant's current condition.

It is not enough to merely conclude that a diagnosed condition is employment related. A physician's opinion on causal relationship must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁸ The various reports from Drs. Gutierrez, Simmons and Zavala do not meet this standard. As such, the medical evidence of record fails to establish a causal relationship between the June 6, 2006 employment incident and appellant's rather severe lumbar condition, which ultimately required surgical intervention in November 2006. Accordingly, the Office properly denied appellant's traumatic injury claim.

CONCLUSION

Appellant failed to establish that his claimed lumbar condition is causally related to the June 6, 2006 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 30, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 24, 2007
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

⁸ *Victor J. Woodhams, supra* note 4.